

MINUTES

Complaints Committee, Independent Press Standards Organisation

Halton House, 20-23 Holborn, London EC1N 2JD

12 November 2014 at 10.30 am

Present: Sir Alan Moses (Chairman)
Richard Best
Lara Fielden
Janette Harkess
Gill Hudson
David Jessel
Matthew Lohn
Jill May
Elisabeth Ribbans
Neil Watts
Peter Wright
Nina Wrightson

Attending: Matt Tee, Chief Executive
Charlotte Dewar, Director of Complaints & Pre-publication Services

The following members of the Executive attended as observers: Elizabeth Cobbe, Sam Falk, Ben Gallop, James Garmston, Robyn Kelly, Tonia Milton, Bianca Strohmman, Hugo Wallis.

1. Apologies

There were none.

2. Minutes

Draft minutes for the Committee's meeting of 15 October 2014 meeting were approved.

3. Matters arising

The Committee confirmed its recommendation to the Board regarding the publication of IPSO's decisions on individual complaints, which reflected decisions taken at its 15 October meeting.

4. Update by the Chief Executive

The Chief Executive updated Committee members on his progress in his first month in post and his priorities for the remainder of the year.

5. Update by the Director of Complaints & Pre-publication Services

The Director of Complaints & Pre-publication Services updated Committee members on issues relating to the development of IPSO's new complaints function.

6. Complaint 144326 Portes v Daily Mail

The Committee discussed the issues raised by the complaint, which had originally been made to the Press Complaints Commission but remained on-going at the time of its closure, and reached provisional conclusions and instructed the Executive to produce a revised draft to reflect the discussion. It subsequently agreed in correspondence to delay confirming its decision pending further discussion at its December meeting.

7. Complaint 144248 Khan v Daily Mail

The Committee discussed the issues raised by the complaint, which had originally been made to the Press Complaints Commission but remained on-going at the time of its closure, and ruled that it was not upheld. A copy of its ruling appears in **Appendix A**.

8. Complaint 144226 A woman v Swindon Advertiser

The Committee discussed the issues raised by the complaint, which had originally been made to the Press Complaints Commission but remained on-going at the time of its closure, but delayed issuing its decision pending the conclusion of correspondence with the complainant.

9. Complaint 144811 A woman v Wilts & Gloucestershire Standard

The Committee discussed the issues raised by the complaint, which had originally been made to the Press Complaints Commission but remained on-going at the time of its closure, but delayed issuing its decision pending the conclusion of correspondence with the complainant.

10. Complaint 144813 A woman v Stroud News & Journal

The Committee discussed the issues raised by the complaint, which had originally been made to the Press Complaints Commission but remained on-going at the time of its closure, but delayed issuing its decision pending the conclusion of correspondence with the complainant.

11. Complaint 145005 A woman v The Daily Telegraph

The Committee discussed the issues raised by the complaint, which had originally been made to the Press Complaints Commission but remained on-going at the time of its closure, but delayed issuing its decision pending the conclusion of correspondence with the complainant.

12. Complaint 0120.14 Wilson v The Press & Journal

The Committee discussed this complaint and ruled that it was upheld. A copy of its ruling appears in **Appendix B**.

13. Complaint 0122.14 Hart v Swindon Advertiser

The Committee discussed this complaint and ruled that it was not upheld. A copy of its ruling appears in **Appendix C**.

14. Complaints not adjudicated at a Complaints Committee meeting

The Committee confirmed its formal approval of IPSO Papers 17, 20, 21, 22, 23, 24, 26, 28, 29, 30, 32, 33, 34, except those complaints still the subject of queries by Complaints Committee members.

15. Any other business

Alan Moses announced that Richard Best had been appointed as Deputy Chair of the Complaints Committee for a period of 12 months.

In his role as Chairman, Alan Moses declared the meeting closed.

APPENDIX A

Shoaib Khan complained to the Press Complaints Commission that an article headlined “Democracy? No, Britain’s now a judicial dictatorship – and it’s time for revolution”, published in the Daily Mail on 13 August 2014, was inaccurate and misleading in breach of Clause 1 (Accuracy) of the Editors’ Code of Practice. The complaint was on-going as of 8 September 2014, at the time of the closure of the PCC. It was therefore considered by the Complaints Committee of the Independent Press Standards Organisation in accordance with the procedures of the PCC.

The complaint was not upheld.

The complainant said that the article, a comment piece criticising the European Court of Human Rights (ECtHR), was inaccurate on a number of counts. It stated that a case concerning voting rights for prisoners “has been rumbling on for almost a decade, at goodness knows what cost in time and money”, noting that it had “originally been brought by ten men ... among them notorious repeat sex offenders”. The case in question had been brought in 2009 and was not a “decade” old. The complainant denied the columnist’s contention that limitations to the right to family life provided for under Article 8 (ii) of the European Convention – for public safety, crime prevention and national security – “are rarely invoked”. To the contrary, he said, they are invoked in nearly all cases where the state seeks to defend a claim under Article 8. The columnist went on to discuss a case in which a Bangladeshi man previously convicted of double murder was given a spousal visa to stay in the UK and commented, “What’s the betting he goes straight on to benefits?” The complainant said that this would mislead readers; this individual would be barred from claiming benefits.

The complainant also said that it was inaccurate to state that “no one has ever had the chance to vote” for ECtHR judges, and to suggest that the ECtHR was a “judicial dictatorship”. The UK’s Supreme Court was not “Blairite” or “European”, and the claim that an individual’s pet cat had been “cited as evidence of his right to remain” in the UK misleadingly suggested that this was decisive in the outcome of that case.

The newspaper denied that the reference to the prisoners’ voting case was significantly inaccurate; the debate over the issue had been on-going for over a decade. Nonetheless, it amended the online article to state that the “question has been rumbling on for almost a decade” and added a footnote to the article. Late in the correspondence, the newspaper also offered a print clarification on this point, while maintaining that there was no breach of the Editors’ Code. The newspaper also amended the reference to Article 8 to state that exceptions were rarely “successfully” invoked. It argued that this was implicit in the columnist’s argument, and said that this reflected a perception held by the Prime Minister – and many of his advisors – that the ECtHR routinely fails to apply the exceptions to Article 8 in right to family life cases.

The newspaper defended its reference to the Bangladeshi man’s ability to claim benefits. It said that the phrase “what’s the betting” indicates in colloquial speech that the statement that follows has been exaggerated for ironic effect. The reference to the individual claiming benefits was a satirical comment which expressed the columnist’s view that foreign criminals who misuse the right to a family life to gain a right to stay in the UK are likely to be “scroungers”. While the newspaper accepted that the immigration rules would generally prevent such an individual from claiming benefits, it maintained that in exceptional circumstances he might be entitled to make a claim on public funds. Nonetheless, late in the

correspondence, the newspaper removed this reference from the online article, and offered to clarify the matter in print.

The newspaper stated that, while there was an election process for ECtHR judges, they were not elected by popular mandate in the same way as Members of Parliament. It noted that the UK's Supreme Court had been established by the Government of Tony Blair, and that such courts were a feature of the constitutions of many continental European countries. It defended the article as a comment piece, in which the writer was entitled to express his view that the ECtHR was a "judicial dictatorship". It was not inaccurate to report that a pet cat was "cited in evidence" before the courts.

Adjudication

While the Committee noted the complainant's points about the article's inaccuracies in relation to the European Court of Human Rights and the application of Article 8, the purpose of the piece was to express the columnist's disapproval of a range of institutions and individuals. The inaccuracies did not materially affect the criticism advanced by the columnist, and in the context of this piece – self-evidently a piece of polemic, expressing a strong view on a matter of general debate – they were not significant. The fact that the case referred to by the columnist had been on-going for five years rather than ten did not materially affect the point that the columnist was making, that the case had been on-going for a significant period and had involved considerable cost. While exceptions to Article 8 may routinely be invoked, in the context of a piece attacking the application of Article 8, this reference was not significantly misleading.

Furthermore, the reference to a potential claim by the Bangladeshi man was clearly distinguished as conjecture. While there is a process for electing judges to the court based on votes by representatives of member countries of the Council of Europe, this is distinct from a popular election in which ordinary people are able to vote. In the context of concerns that judges on the ECtHR are insufficiently accountable to the public, it was not misleading for the columnist to have suggested that "no one" had had the chance to vote for them. The columnist was entitled to express his view that the ECtHR was a "judicial dictatorship", and that the UK's Supreme Court was "Blairite" or "European", on the basis that it had been established while Tony Blair was Prime Minister and had similarities to constitutional courts found in some continental European countries. Finally, the article had not suggested that an individual's pet had been relied upon by a court in reaching a decision on an Article 8 case; rather, it reported that this had been "cited in evidence". While the judgement had ultimately been set aside, it was a matter of public record that the pet had been cited in this context.

APPENDIX B

Summary of Complaint

1. Douglas Wilson, acting on behalf of Highland Titles Ltd, complained to the Independent Press Standards Organisation that The Press & Journal had breached Clause 1 (Accuracy) and Clause 2 (Opportunity to reply) of the Editors' Code of Practice in an article headlined "Clan attack 'Glencoe' plot sales", published on 10 September 2014 in print and online.
2. The complainant's company, Highland Titles, sells plots of land in Scotland to help fund conservation projects. Purchasers of the plots are then, according to the company, entitled to style themselves as "Lord, Laird or Lady of Glencoe". The article reported critical comments made by "Clan Donald Worldwide" about Highland Titles, including a suggestion that the members of Clan Donald Worldwide, a Facebook group, should not associate themselves with the company.
3. The complainant said the article had deliberately confused the Facebook group with Clan Donald itself, and had suggested that the criticisms had been made by the Clan rather than the group. He explained that Clan Donald Worldwide was not officially associated in any way with the real Clan Donald; it was a page operated by a single individual. The suggestion that the real Clan Donald had criticised his company was misleading and damaging.
4. The complainant also denied that he had told the newspaper before publication (as had been reported) that Highland Titles was a charity. It was not a charity, and he had not made such a suggestion. By reporting otherwise, the article had implied that he had unlawfully misrepresented the company. He further objected to an accompanying box, which noted guidance issued by Trading Standards on buying "souvenir plots". This inaccurately suggested, in his view, that Highland Titles had acted improperly, or that Trading Standards were investigating the company, particularly as the article quoted his denial that the company was a "scam". This was misleading.
5. The newspaper accepted that it was inaccurate for it to have attributed the comments to a Scottish clan, and acknowledged that it would have been more accurate to describe the clan as a "Facebook-clan group". It removed the online article and offered to publish a correction on this point on page five or six of its print edition; a note on its letters page, which appeared daily, made clear that its corrections and apologies are published on page five or six. The correction would also be published online for 48 hours. It proposed the following wording:

On September 10, we reported incorrectly that the company Highland Titles had been criticised by "a Scottish clan". In fact, Clan Donald Worldwide, which was quoted in the story, is a Facebook-clan group which promotes interest in Clan Donald around the world. It has no formal connection with the official Clan Donald. We are happy to clarify the matter.

6. The newspaper did not accept that the remaining issues raised a breach of the Code. While the journalist did not have a clear note of her conversation with the complainant, she clearly recalled his having referred to Highland Titles as a charity or a charitable trust. While the newspaper accepted that there might have been some misunderstanding over the precise terminology, it did not regard this as significant in the context: it was accepted that Highland Titles was wholly owned by a charitable trust. The references to Trading Standards were not misleading.
7. The complainant did not accept the proposed correction. This failed to address all the points raised in his complaint and did not include an appropriate apology. The complainant was further concerned that the newspaper's proposal for prominence was inadequate.

Relevant Code Provisions

8. Clause 1 (Accuracy)
 - (i) The Press must take care not to publish inaccurate, misleading or distorted information, including pictures.
 - (ii) A significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence, and - where appropriate - an apology published. In cases involving the Regulator, prominence should be agreed with the Regulator in advance.
9. Clause 2 (Opportunity to reply)
 - (i) A fair opportunity for reply to inaccuracies must be given when reasonably called for.

Findings of the Committee

10. The newspaper's failure to distinguish comments made by a Facebook user from a communication by Clan Donald demonstrated a failure on the newspaper's part to take care not to publish misleading information. The complaint under Clause 1 (i) was therefore upheld. The distinction was significant in this context, and the article was therefore significantly inaccurate in a manner that required correction in accordance with Clause 1 (ii).
11. The newspaper had recognised its error promptly, and had offered the complainant a letter for publication, and then a clarification, prior to IPSO's involvement in the complaint. The wording of the correction offered was sufficient to address and correct the initial error.

12. The Committee was concerned, however, about the newspaper's proposal to publish the correction on page five or six, when the original article had appeared on page three.
13. An established corrections column serves several important purposes: it signifies a commitment to accuracy; it provides information to readers about how to make complaints; and if it appears consistently, it contributes to the prominence of corrections by ensuring that readers know where to find them.
14. In order to ensure that it serves these purposes, an established corrections column should, absent exceptional circumstances, appear in the same place in every edition of the publication and include information about the publication's complaints policy.
15. The Committee welcomed the newspaper's publication of information in each edition regarding the location of corrections. However, the regular placement of corrections on page five or six as standalone items did not, in the Committee's view, amount to an established corrections column. The advertised location of corrections varied across two pages, and the statement recording the publication's policy was published on a different page to that on which corrections appeared. Absent an established column, the Committee did not consider that the publication of a correction two or three pages further back in the publication than the original error constituted due prominence. The newspaper's offer of remedial action on this point did not comply with the requirements of Clause 1 (ii).
16. The Committee next considered the complaint in regard to the complainant's alleged claim that Highland Titles was a charity. While the Committee expressed concern that the newspaper had not been able to provide reporters' notes to corroborate its position, it did not agree that the article had implied that he had acted unlawfully in his presentation of the status of the company. In light of the fact that Highland Titles was wholly owned by a charitable trust, it did not consider that any inaccuracy in the reporting of his comments was significant so as to breach Clause 1.
17. There was no suggestion that the information published in relation to Trading Standards was inaccurate. The article made clear that Trading Standards did not consider that there was anything wrong with the business practices of the complainant's company; the information published was not misleading in the manner suggested by the complainant. Nor did the article's report of the complainant's denial that his company was "a scam" raise any breach of Clause 1.
18. Finally, the Committee noted that the newspaper had offered the complainant the opportunity to reply to the inaccuracies by way of a letter. There was no breach of Clause 2 (Opportunity to reply).

Conclusions

19. The complaint under Clause 1 was in part upheld. The complaint under Clause 2 was not upheld.

Remedial action required

20. Having partially upheld the complaint under Clause 1, the Committee considered what remedial action should be required. The Committee has the power to require the publication of a correction and/or adjudication; the nature, extent and placement is to be determined by IPSO. It may also inform the publication that further remedial action is required to ensure that the requirements of the Editors' Code are met.
21. In the circumstances, and taking into account the nature of the breach of the Code and of the publication, the Committee concluded that the appropriate remedy was the publication of a correction. In particular, the Committee had regard for the fact that, while upholding the complaint under Clause 1 (ii), the newspaper had sought to publish the correction in a location which it, in good faith, believed complied with the requirements of the Code.
22. In the Committee's view, the wording proposed by the newspaper, which adequately identified the original inaccuracy and made clear the correct position, was sufficient. In order to remedy the breach of Clause 1, the newspaper was now required to publish this wording, in full, on page three or further forward, in the newspaper. The correction must also be published on the newspaper's homepage for a period of no less than 48hrs, and then archived on the newspaper's website in the normal way. In addition, acknowledgements must be added to both the print and online versions of this correction to explain that they have been published following a ruling by the Independent Press Standards Organisation.

APPENDIX C

Summary of Complaint

1. George Hart complained to the Independent Press Standards Organisation that the Swindon Advertiser had breached Clause 1 (Accuracy), Clause 3 (Privacy) and Clause 5 (Intrusion into grief or shock) of the Editors' Code of Practice in an article headlined "Police plea after legal highs death", published on 11 September 2014 in print and online.
2. The article reported that police had issued a warning about the dangers of legal highs following the death of Simon Morse, the complainant's brother-in-law. It reported that Mr Morse had been found dead at his home in Grange Park on 9 August, and that it was believed that his death followed intravenous use of a legal high. It included comments by a police constable, who said that Mr Morse "was known to be a Class A drug user. If he got his hands on legal highs he has tried to do the same thing with them and inject them".
3. The complainant regarded the publication of the article, without the consent of his family, as cruel and damaging. He said that it had caused serious intrusion, and had informed at least one family member of the details of the death that the family had hoped to keep from her. The newspaper had failed to handle publication sensitively in breach of Clause 5, and its publication of Mr Morse's full name and partial address constituted a failure to respect his privacy, in breach of Clause 3.
4. Further, the complainant said that the article was significantly inaccurate: Mr Morse's death had not been attributed to legal highs; he had died following an infection, which was recorded on the death certificate as "bacterial endocarditis due to MRSA and multi organ failure". He had not been found dead in his home on 9 August; he had died on 18 August after five days in hospital.
5. The newspaper expressed regret that it had inadvertently caused the family distress at a difficult time. It had not intended to cause upset but to highlight an issue of considerable public concern, following several deaths in the local area connected to legal highs.
6. It explained that the original source of the information had been a police constable on a neighbourhood policing team, who told members of the community at an update meeting that Mr Morse had died after injecting himself with a legal high. The following day, a reporter for the newspaper had contacted the officer to seek additional information. The officer explained that he had been working elsewhere for a portion of August, but that he had been briefed by the rest of his team. He said that he had been told that Mr Morse had died after injecting himself with a legal high. He was not sure of the date of death, but after being asked by the reporter to check by looking at the logs, he said that it was 9 August.

7. While the newspaper noted that it had been relying on information provided by police, it accepted that the claims in the article regarding the timing and location of Mr Morse's death had been inaccurate.
8. It offered to publish a follow-up "tribute" from the family's point of view and to correct and apologise for the inaccuracies in the article. It initially offered the complainant the opportunity to suggest a wording; after he declined, it proposed the following, to be published on the same page as the original article (page five):

Following a report into the death of Simon Morse in Swindon in the Swindon Advertiser on September 11 we have been asked by his family to point out that he was not found dead at his home as was reported but died later in Great Western Hospital. Our report was based on information given to us by Wiltshire Police but we are happy to make this clear and apologise to Mr Morse's family for the distress this caused.

9. The newspaper believed it had acted responsibly in relying on information given by the police about the cause of death. At the time of publication it did not believe, given the public statements by police, that this information was in dispute; it did not accept any breach of Clause 1, but said it would publish the outcome of the inquest, once concluded.
10. The complainant said that this offer (and the newspaper's reliance on information from the police) was inadequate; he wanted a full, published retraction of the article, including in relation to the cause of death. He reiterated his concerns that its publication was not in the public interest and that the family should have been contacted prior to publication.

Relevant Code Provisions

11. Clause 1 (Accuracy)

- (i) The Press must take care not to publish inaccurate, misleading or distorted information, including pictures.
- (ii) A significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence, and - where appropriate - an apology published. In cases involving the Regulator, prominence should be agreed with the Regulator in advance.

12. Clause 3 (Privacy)

- (i) Everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications
- (ii) Editors will be expected to justify intrusions into any individual's private life without consent. Account will be taken of the complainant's own public disclosures of information.

13. Clause 5 (Intrusion into grief or shock)

- (i) In cases involving personal grief or shock, enquiries and approaches must be made with sympathy and discretion and publication handled sensitively. This should not restrict the right to report legal proceedings, such as inquests.

Findings of the Committee

1. It was understandable and regrettable that the publication of inaccuracies regarding the circumstances of Mr Morse's death had caused his family distress. Nonetheless, given that the claims had been published in good faith based on information provided by an apparently authoritative source, the publication of the article – an account of concerns raised by the police about a potential public health concern – had not been handled insensitively. The publication was not required under the terms of the Code to obtain the family's consent in order to publish this material, and there was no breach of Clause 5.
2. Turning to address the complaint under Clause 1, the Committee noted that the newspaper was entitled to rely on the information given to it by the police about an incident in which they had apparently been involved. After learning of the case at a public meeting, the newspaper had – appropriately – taken steps to ensure that the police's position was reported accurately. The decision not to take additional steps, such as by contacting the family for comment, did not constitute a failure to take care over the accuracy of the article. There was no breach of Clause 1 (i).
3. It was accepted, however, that police had provided incorrect information regarding the timing and location of Mr Morse's death. These were significant inaccuracies, which required correction under Clause 1 (ii) of the Code. In the view of the Committee, the wording and prominence of the correction proposed was sufficient to comply with the requirements of Clause 1 (ii), and it welcomed the newspaper's inclusion of an apology, in the circumstances. In order to avoid a breach of the Code, this correction should now be published.
4. The outstanding complaint under Clause 1 related to Mr Morse's cause of death and whether the newspaper had misled readers by connecting it to "legal highs". The death certificate had referred to a bacterial infection and multi organ failure, and had not attributed this to legal highs. However, the Committee noted that he had declined to comment further on the cause of the infection; the reason for Mr Morse's initial admission to hospital was unclear.
5. At the time of its consideration of the complaint, Mr Morse's inquest had not yet been held. The Committee was therefore not in a position to establish the precise circumstances of Mr Morse's death, which would be necessary in order to determine whether the article was significantly inaccurate in this regard. However, it was notable that the article had indicated in reporting the position of the police that there

was an element of conjecture regarding the cause of death; the role of “legal highs” in the death was described as a “belief” of the police. In all the circumstances, the Committee did not establish a breach of Clause 1 on this point. Nonetheless, it made clear that it would expect the newspaper to report appropriately on the inquest, particularly should it be revealed that this initial indication was incorrect.

6. The Committee noted that the article had reported that Mr Morse’s full name and that he lived in Grange Park. However, where those details related only to the deceased party, it did not establish any breach of Clause 3.

Conclusion

The complaints under Clause 1 (Accuracy), Clause 3 (Privacy), and Clause 5 (Intrusion into grief or shock) were not upheld.